

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**STATE AUTOMOBILE MUTUAL
INSURANCE COMPANY**

Plaintiff,

vs.

**ALYNA WEST HOTEL MANAGEMENT
LLC D/B/A QUALITY INN & SUITES**

Defendant.

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**5:16-cv-1214
Civil Action Number**

PLAINTIFF'S MOTION TO DISMISS WITHOUT PREJUDICE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff, State Automobile Mutual Insurance Company ("State Auto"), in the above-entitled and numbered cause, and for its Motion to Dismiss without Prejudice states as follows:

1. On November 30, 2016, State Auto filed its Original Complaint for Declaratory Relief against Defendant, Alyna West Hotel Management LLC D/B/A Quality Inn & Suites ("Defendant"), seeking the appointment of an umpire pursuant to the appraisal clause of the Parties' insurance policy (Document #1). On November 30, 2016, State Auto requested a summons be issued to Defendant (Document #3).
2. Also on November 30, 2016, Defendant filed an Application for the Appointment of An Umpire in the 225th Judicial District of Bexar County, Texas ("Defendant's Petition"). On December 1, 2016, an order was issued by the 225th Judicial District Court of Bexar County appointing an umpire.

3. After receiving service of Defendant's Petition, State Auto filed an Advisory to the Court in this action on December 6, 2016, indicating that a competing suit had been filed in state court, requesting that no summons be issued at this time, and advising that it would be filing a Motion to Dismiss assuming that Defendant's Petition was proper (Document #5).
4. State Auto having now reviewed Defendant's Petition, hereby files this Motion to Dismiss. State Auto requests that its Original Complaint for Declaratory Relief (Document #1) be dismissed without prejudice at the cost of the party incurring the same.

WHEREFORE, Plaintiff, State Automobile Mutual Insurance Company, respectfully requests that this action be dismissed without prejudice, and for all other relief just and proper in the premises.

Respectfully submitted,

/s/ Sterling Elza
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